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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/871,031	05/31/2001	Mary Lucille DeLucia	KCC-15,208	8168

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EXAMINER

THOMPSON, CAMIE S

ART UNIT	PAPER NUMBER
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1774

13

DATE MAILED: 01/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/871,031

Applicant(s)

DELUCIA ET AL.

Examiner

Camie S Thompson

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-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on RCE filed July 9, 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 9, 2003 has been entered.
2. Applicant's amendment and accompanying remarks filed July 9, 2003 have been acknowledged.
3. Examiner acknowledges amended claims 1, 16, 20 and 21.
4. Examiner acknowledges newly added claims 21-29.
5. The rejection of claims 1-4, 6-8, 10 and 13-15 under 35 U.S.C. 102(e) as being anticipated by Jones et al., U.S. Patent Number 6,420,625 is withdrawn due to applicant's argument.
6. The rejection of claim 16 under 35 U.S.C. 102(e) as being anticipated by Smith, III et al., U.S. Patent Number 6,267,975 is withdrawn due to applicant's argument and amended claim 16.
7. The rejection of claims 1-5, 10 and 13-14 under 35 U.S.C. 103(a) as being unpatentable over Jackson et al., U.S. Patent Number 5,643,240 in view of Jones et al., U.S. Patent Number 6,420,625 is withdrawn due to applicant's argument.
8. The rejection of claims 1, 9, 11 and 14 under 35 U.S.C. 103(a) as being unpatentable over Jones et al., U.S. Patent Number 6,420,625 in view of Huntoon et al., U.S. Patent Number 5,906,879 is withdrawn due to applicant's argument.

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9. The rejection of claims 16-19 under 35 U.S.C. 103(a) as being unpatentable over Smith, III et al., U.S. Patent Number 6,267,975 is withdrawn due to applicant's argument and amended claim 16.

10. The rejection of claims 20-29 under 35 U.S.C. 103(a) as being unpatentable over Tanzer et al., U.S. Patent Number 5,853,403 in view of Jones et al., U.S. Patent Number 6,420,625 is withdrawn due to applicant's argument.

Claim Rejections - 35 USC § 112

11. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

12. Claims 16-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear as to whether or not the first layer only has apertures or both the first layer and the compartments have apertures.

Claim Rejections - 35 USC § 102

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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14. Claims 1-2, 5, 9-11, 13-15, 20-21 and 23-29 are rejected under 35 U.S.C. 102(b) as being anticipated by GB 2,284,786.

The ^{GB}~~UK~~ patent discloses a quilted film laminate that comprises a film having a plurality of slits laminated to a substrate layer such as a fibrous nonwoven web as per instant claims 1 and 2 (see abstract and page 2, lines 24-25). Additionally, the reference discloses that the film layer and the substrate layer are joined to one another at a plurality of spaced apart bond points, which can be created by using adhesives and provides voids as per instant claim 1 (see page 3, lines 8-23). It is disclosed on page 3 of the reference personal care absorbent articles such as diapers, wipers, sanitary napkins and incontinence garments that comprise a body side liner and back side liner with an absorbent core disposed therebetween and the quilted laminate is used as the body side liner as per instant claims 13-14, 20-21 and 23-29 (also page 1, lines 5-12 and page 5, lines 15, lines 15-30). Page 7, lines 15-23 of the reference disclose the hydrophobic polymers used to make up the film layer as per instant claim 5. The substrate layer is defined in the reference as being a fibrous nonwoven web wherein the web can be meltblown or spunbond as per instant claims 10 and 11 (see pages 9, line 24-page 1, line 30). Also, the reference discloses on page 9, lines 24-37 that the substrate layer can be knitted materials, scrim or netting as per instant claim 9.

Claim Rejections - 35 USC § 103

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claims 1, 3-4 and 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over GB 2,284,786 in view Jones et al., U.S. Patent Number 6,420,625.

The ^{GB}UK patent discloses a quilted film laminate that comprises a film having a plurality of slits laminated to a substrate layer such as a fibrous nonwoven web as per instant claims 1 and 2 (see abstract and page 2, lines 24-25). Additionally, the reference discloses that the film layer and the substrate layer are joined to one another at a plurality of spaced apart bond points, which can be created by using adhesives and provides voids as per instant claim 1 (see page 3, lines 8-23).

The ^{GB}UK patent does not disclose that the first layer comprises a film and fiber combination as per instant claims 3 and 4. Jones teaches laminate that can be used as a personal care product such as a diaper or sanitary napkin (see column 4, lines 29-53 and column 6, lines 10-14). Also, Jones teaches that the first layer comprises an apertured film and a nonwoven web wherein the nonwoven web can be comprised of spunbond fibers as per instant claims 3 and 4 (see column 7, lines 16-64). The film and fiber combination provide vapor-permeability characteristics (see Jones: column 4, lines 54-64). Therefore, it would have been obvious to one of ordinary skill in the art to have a film/fibrous combination in order to classify the laminate as breathable. The ^{GB}UK patent does not disclose the diameter or the basis weight of the first layer as per instant claims 6-8. Jones teaches that the apertured film layer may be of any desired diameter and that the basis weight is from about 0.25 ounces per square yard (osy) to about 5.0 osy (see (column 5, lines 9-14 and column 6, lines 25-29). The diameter and the basis weight of the first layer affect the absorbency of the composite material. Therefore, it would have been obvious to one of

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ordinary skill in the art to have a basis weight of the first layer to be between 0.3 osy to 2.5 osy and the diameter of the apertures be about 100 microns to 10,000 microns in order to obtain a composite that can readily absorb and trap fluids.

17. Claims 1, 12 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over GB 2,284,786 in view of Tanzer et al., U.S. Patent Number 5,853,403.

The ^{GB}~~UK~~ patent discloses a quilted film laminate that comprises a film having a plurality of slits laminated to a substrate layer such as a fibrous nonwoven web as per instant claims 1 and 2 (see abstract and page 2, lines 24-25). Additionally, the reference discloses that the film layer and the substrate layer are joined to one another at a plurality of spaced apart bond points, which can be created by using adhesives and provides voids as per instant claim 1 (see page 3, lines 8-23). It is disclosed on page 3 of the reference personal care absorbent articles such as diapers, wipers, sanitary napkins and incontinence garments that comprise a body side liner and back side liner with an absorbent core disposed therebetween and the quilted laminate is used as the body side liner as per instant claim 20 (also page 1, lines 5-12 and page 5, lines 15, lines 15-30).

The ^{GB}~~UK~~ patent does not disclose that the substructure is pleated. Tanzer teaches a composite material that can be used as a bodyside liner in an absorbent article wherein the material comprises a liner with a plurality of apertures and is bonded to a nonwoven dam (see column 15, lines 47-68). Also, Tanzer teaches that the side liner panels can be folded or pleated as per instant claim 12 (see column 15, lines 41-45). The structure of the composite allows for an elasticized zone (see Tanzer: column 15, lines 33-45). Therefore, it would have been obvious to one of ordinary skill in the art to have a pleated composite so that the composite is able to remain in contact with the wearer's body.

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Response to Arguments

18. Applicant's arguments with respect to claims 1-222 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Camie S. Thompson whose telephone number is (571) 272-1530. The examiner can normally be reached on Monday through Friday from 7:30 am to 4:00 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia H. Kelly, can be reached at (571) 272-1526. The fax phone number for the Group is (703) 872-9306.

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